

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0299 CG
Charity Gaming

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ISSUES

I. Charity Gaming – Grounds for Penalties

Authority: IC 4-32-12-1; IC 4-32-12-2; IC 4-32-9-8; IC 4-32-9-22.

The Petitioner protests the assessment made by the Department.

II. Charity Gaming – Grounds for Penalties

Authority: IC 4-32-12-3(3).

The Petitioner protests the suspensions made by the Department.

STATEMENT OF FACTS

On or about April 14, 1999 the Petitioner submitted to the Department its Annual Bingo Renewal Application (Form CG-2R). On its renewal application, the Petitioner stated the new address at which it would conduct its bingo events would be "hwy 27 at Tillman Rd. [sic]". A license was issued to the Petitioner at this address and was mailed. The license was returned to the Department by the United States Postal Service for having an "insufficient address". A subsequent investigation by the Department revealed the address given was spurious. The actual location of the Petitioner's planned bingo event was 7800 South Anthony, a location where another qualified organization was and is conducting bingo events. Due to this conflict, the Petitioner's renewal license was denied (See IC 4-32-12-1(a), and pursuant to IC 4-32-12-2 civil penalties were imposed.

Additionally, the Vice President and the Treasurer of the Petitioner's organization are prohibited from associating with any charity gaming events for a period of six (6) months. The Petitioner is also suspended for a period of six (6) months. See IC 4-32-12-3(3).

I. Charity Gaming – Grounds for Penalties

DISCUSSION

IC 4-32-12-1(a) states, “The department may suspend or revoke the license of or levy a civil penalty against a qualified organization or an individual under this article for any for the following: ... (4) Commission of a fraud, deceit, or misrepresentation... (5) Conduct prejudicial to public confidence in the department....”

The Petitioner was on notice from the Department that it would not be granted a license if it used 7800 S. Anthony as its address, because another qualified organization was conducting charity gaming at this location. Indiana law provides that a qualified organization may not conduct an allowable event at the same time and location as another qualified organization. Specifically, IC 4-32-9-22 provides: “Not more than one (1) qualified organization may conduct an allowable event on the same day at the same location.” Further, events may not be conducted on more than two (2) consecutive days, as provided in IC 4-32-9-8(b). The Annual Bingo Renewal Application (Form CG-2R) submitted by the Petitioner contained the address Hwy 27 at Tillman Rd. This address is not a valid address as evidenced by the letter containing the Petitioner’s license being returned by the United States Post Office as having an insufficient address. The address given on the Petitioner’s application was actually the cross streets of the real estate used for a shopping mall and whose address was 7800 South Anthony.

The Petitioner was assessed civil penalties based upon the information provided in its renewal application. The Department determined that the Petitioner by the use of a spurious address was misrepresenting the facts on its application and this constituted conduct prejudicial to public confidence in the department. It is clear from the evidence in the hearing, that the Petitioner was using a false address in an attempt to circumvent the charity gaming statutes and regulations, by applying for a license at a location where it was on notice that a license would not be issued by the Department.

The Petitioner contends that the Hwy 27 at Tillman Rd. address is a separate location from 7800 South Anthony inasmuch as the two license organizations would be utilizing different stores in the shopping mall. If the Petitioner wished to challenge the states regulations on the definition of location it would have been in its best interest to apply for a license utilizing the 7800 address and then challenge the denial once it was issued by the Department. Instead, the Petitioner used a cross street address in an attempt to obtain a license improperly. The definition of location; therefore, is not at issue in this matter.

FINDING

The Petitioner’s protest is denied.

II. **Charity Gaming – Grounds for Penalties**

DISCUSSION

As a result of the Department's investigation, the Vice President and the Treasurer of the Petitioner's organization were notified that they are prohibited from associating with any charity gaming events for a period of six (6) months. The Organization itself is suspended for a period of six (6) months from all gaming activities. The Petitioner protests these suspensions.

The Petitioner's protest in Issue I was denied. IC 4-32-12-3(3) states in pertinent part:

In addition to the penalties described in section 2 of this chapter, the department may do all or any of the following: ... Prohibit an operator or an individual who has been found to be in violation of this article from associating with charity gaming conducted by a qualified organization...

FINDING

The Petitioner's protest is denied. All suspensions shall begin on the date the civil penalties are paid or at the conclusion of the Petitioner's administrative remedies, whichever is later.